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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,633	02/19/2002	Gerald S. Pullman	07648.0025	2604

7590 06/03/2003

Finnegan, Henderson, Farabow,
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1300 I Street, N.W.
Washington, DC 20005-3315

EXAMINER

HAAS, WENDY C

ART UNIT	PAPER NUMBER
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1661

DATE MAILED: 06/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/076,633

Applicant(s)

PULLMAN ET AL.

Examiner

Wendy C Haas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-94 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-94 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1, 3-5, 31, 34, 35, and 65-67 drawn to a conifer tissue culture methods comprising a medium supplemented with biotin, classified in class 435, subclass 422.
- II. Claims 2, 32 and 33, drawn to a plant tissue culture medium supplemented with biotin, classified in class 435, subclass 431.
- III. Claims 6, 8-11, 36, 38-40 and 68-70, drawn to conifer tissue culture methods comprising a medium supplemented with folic acid, classified in class 435, subclass 422.
- IV. Claims 7 and 37, drawn to a plant tissue culture medium supplemented with folic acid, classified in class 435, subclass 431.
- V. Claims 12-14, 16, 18, 19, 41, 42, 44 and 71-73, drawn to conifer tissue culture methods comprising media with a controlled pH with or without the use of a buffer, classified in class 435, subclass 422.
- VI. Claims 15, 17, 43, 45-47, 74, 76, drawn to plant tissue culture media of a given pH range with or without a buffer, classified in class 435, subclass 431.
- VII. Claims 20, 22, 23, 25-28, 48, 50-54, 77-82, drawn to conifer tissue culture methods comprising a medium comprising a gibberellin inhibitor, classified in class 435, subclass 422.

- VIII. Claims 21, 24, and 49, drawn to a plant tissue culture medium comprising a gibberellin inhibitor, classified in class 435, subclass 431.
- IX. Claims 29, 30, 55, 56, and 83-88, drawn to a conifer tissue culture method comprising culturing tissues in a closed container where the free exchange of gasses with the ambient atmosphere is fully prevented or selectively reduced, classified in class 435, subclass 422.
- X. Claims 57, 58, and 89-91, drawn to a conifer tissue culture method comprising maintaining the atmospheric pressure of the culture vessel above 1 atmosphere, classified in class 435, subclass 422.
- XI. Claims 59, 61-64, and 92-94, drawn to a conifer tissue culture method comprising a medium supplemented with abscisic acid, classified in class 435, subclass 422.
- XII. Claim 60, drawn to a plant tissue culture medium comprising abscisic acid, classified in class 435, subclass 431.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I or IV and III or VI and V or VIII and VII or XII and XI are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case each claimed tissue culture medium (product) can be used in a materially different process, for example, to make a plant different from the plant claimed in each of the method claims.

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Inventions I, III, V, VII, IX, X and XI are each distinct from the others because each tissue culture method is distinguished by an element that would require a separate search. Because the search required for each group is not required for any other group, restriction for examination purposes as indicated is proper.

Inventions II, IV, VI, VIII, and XII are each distinct from the others because each group of media is distinguished by an element that would require a separate search. Because the search required for each group is not required for any other group, restriction for examination purposes as indicated is proper.

Inventions I, III, V, VII, IX, X and XI are distinct from each of Inventions II, IV, VI, VIII, and XII because inventions I, III, V, VII, IX, X and XI are tissue culture methods and inventions II, IV, VI, VIII, and XII are tissue culture media. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Future Correspondence

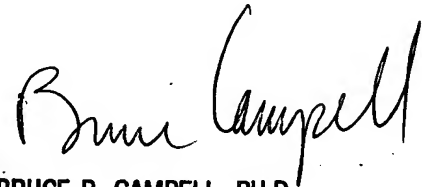
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wendy C Haas whose telephone number is (703) 308-8898. The examiner can normally be reached on Monday through Friday from 9 a.m. to 5:30 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on (703) 308-4205. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-3166 for regular communications and (703) 746-3166 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

W. C. Haas

A handwritten signature in black ink, appearing to read "Bruce Campell", is written over a rectangular area.

BRUCE R. CAMPELL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600